

**GENERAL SYNOD**

**DRAFT CLERGY DISCIPLINE (AMENDMENT) MEASURE**

**REPORT OF THE STEERING COMMITTEE OF MEMBERS IN CHARGE**

**Chair:** The Right Reverend Christopher Hill, Bishop of Guildford

**Members:** The Venerable Annette Cooper (Chelmsford)  
Mrs Jennifer Dunlop (Chester)  
Miss Vasantha Gnanadoss (Southwark)  
The Reverend Prebendary Sam Philpott (Exeter)

1. The draft Clergy Discipline (Amendment) Measure ('the draft Measure') received First Consideration from the General Synod at the February 2011 group of sessions and was committed to a Revision Committee. At the February 2012 group of sessions the Synod took note of the report of that Committee (GS 1814Y) and completed the Revision Stage for the draft Measure, which then stood committed to the Steering Committee under Standing Order 59(a) in respect of its Final Drafting.
2. The Steering Committee has conducted its remaining business by correspondence under Standing Order 59(f). It now returns the draft Measure (GS 1814B) to the Synod for Final Drafting and Final Approval.
3. Under Standing Order 59, on the Final Drafting Stage the Steering Committee may propose 'Drafting Amendments' or 'Special Amendments', or both. These two categories of amendments are defined in Standing Order 59(g) as follows –
  - (i) a Drafting Amendment means an amendment where only the wording of the Measure is altered and not its substance; and
  - (ii) a Special Amendment means an amendment considered necessary or desirable by the Steering Committee because the Measure is not sufficiently clear or because some other criticism not considered by the Synod or any Revision Committee has been brought to the notice of the Steering Committee.
4. The Steering Committee has agreed the Drafting Amendments set out in Part 1 of Annex A, and shown in bold type in GS 1814B, which have been identified on final scrutiny of the draft Measure as necessary corrections to the text. An explanation for these Drafting Amendments is given in Part 2 of Annex A.
5. The Steering Committee also proposes the Special Amendments set out in Part 1 of Annex B which appear to it to be desirable. An explanation for each of the proposed Special Amendments can be found in Part 2 of Annex B.

**On behalf of the Committee**  
**+Christopher Guildford**  
**Chair**

**May 2012**

PART 1

DRAFTING AMENDMENTS

**Clause 1(3)**

- (i) In the new section 8(4) insert the word “above” after the words “Notwithstanding subsection (3)”.
- (ii) For the new section 8(8) substitute the following:

“(8) Any declaration made under subsection (4) above may be revoked by a resolution of the House of Bishops and subsections (5), (6) and (7) above and (9) below shall apply to any such resolution as they apply to a declaration under subsection (4).”
- (iii) In the new section 8(10) insert the word “above” after the words “In subsection (4)”, and for the word “race” substitute the word “races”.

**Clause 2(2)**

- (iv) In the new section 16(3A) delete the word “Where”.

**Clause 3(3)**

- (v) In the new section 20(1A) insert the words “, as the case may be,” after the words “Vicar-General’s court”.
- (vi) In the new section 20(1B) for the words “holy orders” substitute the words “Holy Orders”.
- (vii) In the new section 20(1C) insert the words “disciplinary tribunal or the” after the words “If the”, and insert the words “tribunal or the” after the words “in such way as the”.

**Clause 3(4)**

- (viii) In the new section 20(4) after the words “subsection (1)” insert the words “or on an application for leave to appeal under subsection (1A) above”.

**Clause 3(6)**

- (ix) For the words “1963 Measure” substitute the words “Ecclesiastical Jurisdiction Measure 1963”.

**Clause 4(2)**

- (x) In sub-clause 4(2)(a) for the words “shall be” substitute the word “is”.

**Clause 4(3)**

- (xi) In the new section 30(1A) insert the words “section 2(1) of and” after the words “in accordance with”.

**Clause 4(6)**

- (xii) For the words “shall be” substitute the word “is”.

**Clause 9(3)**

- (xiii) For the word “subsections” where it first appears substitute the word “subsection”, and leave out the words “and paragraph (d) shall be re-numbered “(c)””.

**Clause 9(7)**

- (xiv) After the words “section 7(2)(a)” insert the words “of the Ecclesiastical Jurisdiction Measure 1963”.

**Schedule**

**Paragraph 10**

- (xv) For the words “shall be” where they first appear substitute the word “are”.

**New paragraph 11**

- (xvi) After paragraph 10 insert the following new paragraph–

“11. In section 43(1), after the definition of “the 1963 Measure”, there is inserted the following definition–  
““barred list” has the meaning assigned to it by section 30(1A) above;”.”,

and renumber subsequent paragraphs of the Schedule accordingly.

## PART 2

### EXPLANATION OF DRAFTING AMENDMENTS

**Amendment (ii):** to improve the manner in which the provision is expressed, by identifying specifically each provision that applies to a revocation. The new section 8(8) will be further amended if special amendment (i) is carried.

**Amendment (iii):** to achieve consistency with the new subsection 8(4) which uses the term “races”.

**Amendment (vii):** to improve the manner in which the provision is expressed, so as to spell out that the bishop’s disciplinary tribunal, the Vicar-General’s court and the appeal court can all give directions limiting the issues to be heard on appeal.

**Amendment (viii):** to improve the manner in which the provision is expressed, so as to spell out that it relates to applications for leave to appeal as well as to substantive appeals.

**Amendment (xvi):** to provide in the interpretation section of the Clergy Discipline Measure for a reference to the definition of “barred list” which is contained in the new section 30(1A).

**Other drafting amendments:** to improve the form or manner in which the draft Measure is expressed.

**PART 1**

**SPECIAL AMENDMENTS**

**Clause 1(3)**

- (i) In the new section 8(8), leave out the words “and (9) below”.

**Clause 4(2)**

- (ii) For the new paragraph (a) in section 30(1) inserted by clause 4(2), substitute the following paragraph:

“(a) is convicted, –

- (i) whether in England or elsewhere, of any offence for which a sentence of imprisonment (including one which is not implemented immediately) is passed on him, or
- (ii) of any offence, other than a summary offence, committed in England and Wales; or”.

**PART 2**

**EXPLANATION OF SPECIAL AMENDMENTS**

**Special Amendment (i)** removes the requirement for a two-thirds majority in the House of Bishops to revoke a declaration of incompatibility; consequently, by this amendment, a revocation could be made by the House upon a simple majority of less than two-thirds. A revocation by the House, however, would still have to be published and would be subject to the provisions relating to debate and approval by the General Synod.

In proposing this amendment the Steering Committee is mindful of the important general principle in section 8(3) of the Clergy Discipline Measure that no proceedings shall be taken in respect of lawful political opinions or activities. Clause 1(3) of the draft Measure will provide an exception to this principle by restricting the rights of clergy in relation to organisations that are declared to be incompatible with the Church’s teaching on racial equality.

Whilst there is therefore a case for a two-thirds majority for the making of a declaration of incompatibility, the same consideration does not apply in relation to its revocation. Indeed, the opposite is true: if a special majority were required for revocation, a declaration of incompatibility in respect of a particular organisation would not be capable of being revoked even if a simple majority of the House of

Bishops no longer supported it (which could happen, for example, if the organisation in question changed its position on racial equality). That would be an unwelcome state of affairs.

**Special Amendment (ii)** amends the new draft section 30(1)(a)(ii) of the Clergy Discipline Measure, which would enable a bishop to impose a penalty upon conviction in the United Kingdom for an offence other than a summary offence where a cleric does not receive a prison sentence, and upon conviction for an equivalent offence outside the United Kingdom. Draft Special Amendment (ii) will restrict the new provision to England and Wales, for two reasons:– first, it could otherwise be problematic to determine which offences committed outside the United Kingdom are equivalent offences; and second, the definition of summary offence is not uniform throughout the United Kingdom, which could result otherwise in clerics being treated differently for similar offences depending on where in the United Kingdom the offence was committed.

The bishop will continue to have power to impose a penalty under section 30(1) on a priest or deacon where a prison sentence is passed on him, whether in England or elsewhere.

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